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Canada's drug-impaired driving legislation:
A brief analysis of recent changes

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Background


- > October 2018 recreational cannabis use became legal in Canada through Bill C-45.
- > Bill C-46 also passed to update the Criminal Code.
- > Section 253 subsection 3 (a-c) of the Criminal Code.
- > Implemented a 'per se' limit for drug-impaired driving.



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Bill C-46: CCC Text

CCC Section 253, Subsection 3:

(a) a blood drug concentration that is equal to or exceeds the blood drug concentration for the drug that is prescribed by regulation;


...

(c) a blood alcohol concentration and a blood drug concentration that is equal to or exceeds the blood alcohol concentration and the blood drug concentration for the drug that are prescribed by regulation for instances where alcohol and that drug are combined.

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Bill C-46: Regulations

- > Authority given to the Governor-in-Council.
- > Governor-in-Council delegates its authority to the Minister of Justice.
- > Minister oversees the implementation of these regulations through the DOJ.
- > Per se limits set at 2 ng/ml of THC.

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Bill C-46: Scientific Basis


THC-based impairment:

- > Impairment thresholds for THC are questionable based on certain studies.
- > 2 ng/ml of THC can be detected in the blood 7-days after consumption (Karschner et al., 2009; Bergamaschi et al., 2013).
- > Lack of consensus on impairing effect.

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Bill C-46: Scientific Basis


Polysubstance-caused impairment:

- > Most of the research pertains to the combination of alcohol and cannabis.
- > Firm consensus on the dose-response relationship.
- > Not as well-understood as BAC limits.

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Bill C-46: Objectives


- > *"The interest in utilizing a per se approach is an attempt to **simplify the adjudication process, facilitate enforcement, and enhance deterrence.**"*
(Peaire et al., 2017 p. 5)

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Implications


- > Have regulatory legal functions been fused with criminal law?
- > Are regular cannabis users impaired if they still have >2 ng/ml of THC several days after consumption?
- > Can a deterrent effect be achieved comparable to BAC limits through this legislation?

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